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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 August 1996, at 10 a.m.

Chairman: Mr. EIDE

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ELIMINATION OF RACIAL DISCRIMINATION

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION

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The meeting was called to order at 10.10 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1996/9 and 32; E/CN.4/Sub.2/1996/NGO/1, 3, 7, 8, 12, 13, 14 and 16)

1. Mr. CHERNICHENKO, speaking of the human rights situation in his own country, said he was extremely concerned by the flagrant and massive violations of social and economic rights that were currently being perpetrated in the Russian Federation. The problems that arose in the science, education and public health sectors were very disturbing and, despite the optimistic official predictions, it was difficult to hope for a rapid improvement in the situation. Furthermore, it was impossible to ignore the events currently taking place in Chechnya. Those events were often reported from only one point of view, and non-governmental organizations (NGOs) and the press generally mentioned only violations committed by the Russian federal troops. It must not be forgotten that the Chechen separatists were constantly violating cease-fire agreements, were using civilian installations for military purposes and were systematically kidnapping people who had no connection with military operations. An increasing number of hostage-takings and terrorist acts had also been committed by Chechen separatists, even outside Chechnya.

2. With regard to the Sub-Commission's methods of work, he wondered to what extent the resolutions adopted by that body, which was apolitical and therefore attracted less media attention than the Commission, could produce results since the Commission's resolutions were often completely forgotten within a month of their adoption. There was, therefore, reason to believe that the only effect of resolutions concerning the human rights situation in a given country was to politicize the work of the Sub-Commission. He therefore thought that the Sub-Commission should refrain from adopting such resolutions except within the framework of the procedure established in Economic and Social Council resolution 1503 (XLVIII). Consequently, he would not participate in the discussion or possible adoption of the draft resolutions in question, although he would not stand in the way of consensus. Nevertheless, the Sub-Commission had a duty to continue to consider the human rights situation in a given country with the valuable assistance of NGOs. In that regard, it was perhaps time to reconsider the idea of a world report on the human rights situation, which had been suggested several years previously. Furthermore, the Sub-Commission was sometimes faced with urgent situations. In the past, it had reacted directly to such situations but, in view of the existence of a specific mechanism, the High Commissioner for Human Rights, it should no longer do so and should request the High Commissioner to intervene where necessary.

3. In 1993, he himself had suggested a study of the question of the recognition of gross and large-scale violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime. That proposal had been endorsed by the Sub-Commission, but, at the request of Western countries, the Commission had asked it to reconsider that decision,

arguing that it would duplicate the work of the International Law Commission. He considered that argument unfounded and was surprised that the Western countries, which were usually very active in the area of the protection and promotion of human rights, had demonstrated such hostility to the project.

4. In conclusion, he thought that politicization was a threat to all the bodies which dealt with human rights and hoped that the Sub-Commission, which was in a better position than the Commission in that regard, would forcefully resist that tendency.

5. Mr. GJONEJ (Observer for Albania) said he thought that the improved cooperation between the Sub-Commission and the Commission and the techniques for monitoring and implementing international human rights standards were all the more important in view of the appearance of increasingly complex human rights violations.

6. After many years of conflict, there was a trend towards reconciliation in much of the territory of the former Yugoslavia. However, the situation in Kosovo remained very sensitive, and the progress that had followed the conclusion of the Dayton agreements had not affected that region. The Albanian population, over 2 million inhabitants, continued to be deprived of its legitimate rights and of all participation in social, political and economic life as a result of discriminatory legislation which was causing increasing numbers of Albanians to flee Kosovo. Albanians were also alleged to have been killed by the police or to have been victims of acts of torture or other forms of cruel and degrading treatment. As was shown by the opening of a United States Information Office in Priština, international bodies were closely monitoring the situation in Kosovo, but, apparently, without result. It was also regrettable that the Federal Republic of Yugoslavia (Serbia and Montenegro) had decided not to respect the international decisions regarding Kosovo or to commit itself to dialogue. Only constructive negotiation could pave the way to an equitable solution of that problem, which was a source of concern to the Balkan countries, and he hoped that the Sub-Commission would play an active role in the search for a solution.

7. Mr. LOPEZ DA CRUZ (Observer for Indonesia) said that the Chairman of the Sub-Commission, in his opening statement, had drawn the Sub-Commission's attention to the principle of a "common responsibility" for the promotion and protection of human rights. He had also cited the tranquil transition of South Africa as an example of the transformation of a situation of conflict and human rights abuses into one of peaceful and constructive coexistence between all groups of society. Such a change could take place only if all the protagonists had the political courage to forget the past and look to the future. It was also important to recall that, behind apparently endemic problems, there were always agitators or conflict entrepreneurs whose sole ambition was to undermine the efforts of Governments to advance the cause of human rights for all.

8. In view of those facts, he categorically rejected the observer for Portugal's statement concerning East Timor which was replete with groundless allegations and distorted facts. As history had shown, the sad plight of the people of East Timor was, above all, the result of the abandonment of that territory by the Portuguese colonial power in 1975 and the ensuing civil war.

The vast majority of the people of East Timor had subsequently exercised their right to self-determination by deciding to integrate with the Republic of Indonesia. Moreover, in its judgement of 30 June 1995, the International Court of Justice had clearly rejected Portugal's claim to be the administering power in East Timor, and two of the judges who had expressed separate opinions had concurred that the Court was not persuaded by the Portuguese claim.

9. He hoped that the Sub-Commission would take into account the lack of responsibility demonstrated by Portugal in abandoning East Timor and the International Court of Justice ruling, and he advised the Sub-Commission to ignore other statements concerning Indonesia, which were the work of political provocateurs and profiteers who were manipulating certain NGOs.

10. Mr. ZIARAN (Observer for the Islamic Republic of Iran) said that the debate on human rights had been overshadowed in recent years by political considerations, selectivity, double standards and confrontation. That trend, which threatened to undermine cooperation between Governments and the various human rights mechanisms, must be resisted. Mindful of that problem, during the fifty-second session of the Commission, many delegations had expressed their concern over the politicization of the question of human rights and the emergence of a confrontational approach in the Commission. The Chairman of the Commission had therefore established a group to explore ways of promoting cooperation, consultation, transparency and consensus in the field of human rights. The deliberations and decisions of the Sub-Commission could contribute to that Commission project. The Sub-Commission could encourage cooperation and create an ambience conducive to the promotion of human rights and fundamental freedoms worldwide. In his opening statement, the Chairman of the Sub-Commission had emphasized that, in considering the human rights situation in various countries, due attention should be given to the spirit of cooperation which might or might not be demonstrated by the Governments concerned and to positive developments in the countries in question.

11. For its part, the Islamic Republic of Iran had increased its cooperation with human rights mechanisms. The Iranian Government had cooperated fully with the Special Representative responsible for studying the situation of human rights in the Islamic Republic of Iran and with the Special Rapporteurs on the question of religious intolerance and on the right to freedom of opinion and expression. It had also invited the High Commissioner for Human Rights to visit Iraq and had asked the Centre for Human Rights for advisory services and technical assistance on the administration of justice and the prison system. Finally, it had responded promptly to all requests for information and clarification from the various mechanisms. He hoped that that positive approach would be taken into consideration by the Sub-Commission.

12. Mr. WALDEN (Observer for Israel) said that while he found it encouraging that the situation in the Middle East had not been a major topic for discussion - a sign that it was understood that progress towards peace was basically dependent on direct negotiations - he nevertheless regretted that the considerable progress made in that area had been scarcely mentioned. The statement of the Palestinian representative, in particular, had shown a total absence of a spirit of reconciliation. He stressed the fact that the Israeli Government remained firmly committed to pursuing the peace process. There had been considerable progress in the implementation of the Oslo Agreements. The

Israeli withdrawal from the Gaza Strip had been completed and, on the West Bank, some 40 areas under the civilian administration were currently under exclusively Palestinian control. Nearly 90 per cent of the Palestinian population had internal autonomy. Many Palestinian prisoners had been freed and elections had been held in the territories.

13. Unfortunately, Palestinian violations of human rights, corroborated by numerous reports, were continuing. The Palestinian authorities had not respected their commitment to fight against terrorism. Since the beginning of the year, 60 Israeli civilians had died and approximately 200 had been wounded as a result of attacks by Hamas and other terrorist groups. Israel had taken the necessary steps to protect its own nationals, for example, by closing the territories. It had subsequently relaxed those measures and hoped to be in a position to do so to an even greater extent. The progress of negotiations on the definitive status of the territories involved several extremely sensitive issues, including that of the settlements. The Government's decision to end the moratorium in that respect concerned only construction in the existing settlements. There was no question of establishing new settlements. Moreover, any construction project must be explicitly authorized by the Government. Israel had committed itself to discussing that question during the negotiations on final status, and it remained committed to do so.

14. Israel regretted that the Syrian Government was refusing to resume negotiations without prior conditions. Israel also reaffirmed that it had no territorial ambitions in Lebanon and was merely demanding that Hezbollah should be controlled and that the attacks launched from the land to the north of Israel should cease.

15. Mr. AKRAM (Observer for Pakistan) said he would have liked to inform the Sub-Commission of his country's achievements in the field of human rights and the remaining problems in that area, but the statements made by certain NGOs in the pay of India with regard to the situation in the occupied State of Jammu and Kashmir required an explanation. The people of that State, which was fighting to exercise its right to self-determination, were being cruelly oppressed by the 600,000 or so Indian soldiers who were occupying the region, their political leaders were being threatened and harassed, and human rights activists were regularly being subjected to torture. India was combining force with deception. The people of Jammu and Kashmir were refusing the sham elections offered to them and were continuing to demand the withdrawal of the Indian occupation forces. Pakistan, too, was opposed to the holding of such elections: the organization of elections under foreign occupation had never had any results other than the installation of puppet regimes and the aggravation, rather than the solution, of conflicts.

16. The world had failed to react to the killings in Kashmir. Perhaps the principle of self-determination no longer suited certain champions of democracy, to whom the illusion of freedom seemed as good as freedom itself. On 13 August, the Organization of the Islamic Conference Contact Group on Kashmir would hold a ministerial meeting in Islamabad to consider the measures that the Islamic world could take to confront that new conspiracy against the oppressed people of Jammu and Kashmir. Pakistan hoped that the Sub-Commission would concern itself with the fate of the Kashmiris and would carry out its obligation to promote human rights and freedoms in the world.

17. Mr. MUÑOZ LEDO (Observer for Mexico) said that the events in Chiapas were eloquent proof of the fact that Mexico was the first Latin American country to propose dialogue as a solution to an armed uprising by a dissident group. An ongoing dialogue had been established between representatives of the Federal Government, the Zapatista army, the National Congress and civil society. In February 1996, the first agreements on indigenous rights and culture had been concluded, as his delegation had informed the Commission at its fifty-second session.

18. The Mexican Government had shown every evidence of its willingness to improve the rule of law and democracy in the country. A constitutional reform had been undertaken and a new Supreme Court had been established and given increased powers to rule on the constitutionality of laws. The electoral institutions had also been reformed recently. While human rights violations were being committed in Mexico, they were not part of a State policy, and there were appropriate mechanisms to prosecute those responsible. The increasing interest in human rights in Mexico on the part of NGOs was merely the reflection of a current debate on the question in the media and in civil society.

19. In July 1996, for the first time in the history of the Organization of American States, the Mexican Government had received a visit from the Inter-American Commission on Human Rights, which had been given every opportunity to carry out its work. The Inter-American Commission had found it particularly significant that the great majority of the recommendations made by the national Human Rights Commission had been implemented by the authorities responsible. In the same spirit, the Mexican Government had cooperated with the thematic mechanisms of the Commission; for example, it had invited the Special Rapporteur on torture to visit Mexico.

20. The Mexican Government respected freedom of opinion and recognized the valuable role of NGOs, which, by denouncing human rights violations, allowed it to prosecute those responsible. However, certain exaggerations were threatening the credibility of those organizations, necessary though they were to democracy and the cause of human rights.

21. The CHAIRMAN invited government observers to exercise their right of reply if they so desired.

22. Ms. JARF (Observer for Syria) noted that, while Israel claimed that it wished to resume negotiations with Syria, it failed to recognize the very bases of the peace process, particularly the principle of "land for peace". On several occasions, Syria had expressed the desire to pursue negotiations, but those negotiations must be a step towards true peace rather than an occasion for political manoeuvres intended to undermine it such as those resorted to by the new Israeli Government, which was composed of extremists. In reply to the statement by the World Organization against Torture, which had made accusations against Syria, she said that that statement had marked the first time in five years that that organization had mentioned the situation in Syria in its reports and that its accusations were highly politicized, biased and misleading and cast doubt on the organization's credibility.

23. Mr. EL MUFTI (Observer for the Sudan), speaking in reply to the statement by Christian Solidarity International, explained that the Sudan was not governed by a totalitarian regime since elections had been held there in the presence of representatives of some 50 organizations, including the Arab League and the United Nations. Moreover, the armed conflict raging in the south of the country had been going on for 50 years and was, therefore, not the result of Government policies. That conflict was neither Arab-African nor religious in nature but, rather, a legacy of the policies of the colonial period which the Government had attempted to resolve by peaceful means. There was no basis for the allegations of Christian Solidarity International or for those contained in another report prepared by a member of the House of Lords. The Special Rapporteur on the situation of human rights in the Sudan had been invited to visit that country in early August, and it was important to note that the Sudan had complied with the resolutions of the General Assembly.

24. Mr. EGÜZ (Observer for Turkey) said he felt compelled to exercise his right of reply after the extremely polemical statement made by one member of the Sub-Commission. He was both happy that a tribute had been paid to the memory of an eminent journalist, who had been the victim of a terrible and despicable assassination, and astonished to hear the Sub-Commission member concerned deplore the death of a Turkish Cypriot. It was disturbing to see that an act of terrorism was being shamelessly exploited to launch slanderous accusations against Turkey by developing a ridiculous conspiracy theory concerning a case in which, as yet, the judicial proceedings had not even been completed. Turkey, which had condemned Mr. Adali's assassination, categorically rejected all the insinuations made by that member of the Sub-Commission, who was known for her close links with the Greek-Cypriot Government.

25. Ms. PALLEY said she wished to reply to Turkey, which had called her personally into question. She was very sorry that her sincere interest in and admiration for Mr. Adali had led the observer for Turkey to express surprise that she had deplored the death of a Turkish Cypriot. For her, there were only Cypriots, whether Turkish or Greek, and she had not been expressing an opinion regarding the death of that journalist or expounding any kind of conspiracy theory. In fact, she had been very careful not to accuse Turkey or to make any sort of insinuation. She had merely said that there was some evidence implicating Turkey as an occupying Power. An occupying Power had a duty to protect the human rights of everyone under its control. The evidence was that Mr. Adali, who had been criticizing Turkey for eight years, had been murdered at the very moment when his writings threatened to compromise the Turkish Government within the framework of confidential proceedings and when it was possible that he would be called to testify before the European Commission of Human Rights. The allegations that journalists had been murdered by the Turkish Secret Service for having criticized the Government were not new, but she, personally, had made no accusation. Her concern in mentioning the case had been to preserve the safety of other Turkish Cypriots, particularly Turkish interpreters working in the region controlled by the Government. She hoped that Turkey, as an occupying Power, would do whatever was necessary to ensure the security of the many other people who were exercising their right to freedom of expression and that there would be an in-depth inquiry into the death of Mr. Adali. She eagerly awaited the findings of that inquiry.

26. Mr. SALMAN (Observer for Iraq) said he deplored the political tone adopted by certain manipulated NGOs, which confirmed that they were not really concerned by the human rights situation in his country but were merely seeking to exacerbate the political campaign against Iraq and to distract attention from the responsibility of States that were seeking to starve the Iraqi people. Those organizations claimed that Iraq was trying to prevent implementation of the "oil for food" procedure, although everyone knew that only the United States was hindering that implementation. The Fondation Danielle Mitterrand had made allegations concerning human rights violations in the region of Kurdistan, ignoring the fact that, since 1991, that region had no longer been under Iraqi authority because of the presence of Western forces. He hoped that certain groups would not be allowed to use the Sub-Commission for political purposes far from the noble humanitarian objectives that it defended.

27. Mrs. MARKIDES (Observer for Cyprus) recommended that the observer for Turkey, in speaking of her country, should use the United Nations terminology. Everyone knew that the illegal entity established in the part of the island occupied by Turkish forces was recognized only by Turkey and that the only recognized Government on the island was that of the Republic of Cyprus. The observer for Turkey, in a desperate attempt to divert attention from the crimes perpetrated by his country in Cyprus and from the brutal murder, the previous day, of a 24-year-old Greek Cypriot who had merely been trying to exercise his right to freedom of movement, had resorted to lying insinuations regarding the murder of Kutlur Adali. The fact that Turkey had perpetrated gross and systematic violations of the human rights and fundamental freedoms of the Cypriot people was well documented by the European Commission of Human Rights. The observer for Turkey should advise his Government to, at least, comply with the United Nations resolutions on Cyprus and to withdraw its occupation troops and settlers rather than resorting to fallacious arguments.

28. Mr. FASEHUN (Observer for Nigeria) alluded to the statement made on 7 August 1996 by the representative of the International Federation of Human Rights, which had presented a distorted view of the situation in Nigeria. The Nigerian Government had taken effective measures to improve respect for the rights of Nigerian citizens, and the members of the Sub-Commission were well aware of the Government's intention to respond appropriately to the recommendations of the United Nations fact-finding mission that had visited Nigeria in early 1996. Nigeria was not a dictatorship and its Government, which was working to build a new political and economic society, needed the support and cooperation of the international community rather than the condemnation of NGOs which were merely seeking to promote their own interests.

29. The CHAIRMAN said that, before declaring the consideration of agenda item 6 concluded, he wished to clear up any misunderstandings that might have been caused by his opening statement. It was important to encourage broad consultations on questions related to agenda item 6, not only within United Nations bodies but also in the countries concerned. As the preamble to the Universal Declaration of Human Rights stated, "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law". He explained that the expression "conflict entrepreneurs" could apply to Governments, as was sometimes recognized by those Governments' successors.

ELIMINATION OF RACIAL DISCRIMINATION

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (agenda item 5) (E/CN.4/Sub.2/1996/5 and 8; E/CN.4/1996/71 and Add.1, and 72 and Add.1)

30. Mrs. FARHI (International Council of Jewish Women) said that the resurgence of racist and xenophobic movements of the extreme right in Europe was very disturbing. The National Front in France, whose racism, particularly towards Arabs, and anti-Semitism no longer needed to be demonstrated, had been able to use the mechanisms of democracy to win municipal elections in several large cities and to infiltrate the machinery of society. There was even a policemen's union solely devoted to those beliefs. The neutrality of the security forces, a pillar of democracy, was thus seriously threatened.

31. Concurrently with the rise of the National Front, there was a strong resurgence of Holocaust revisionism, as demonstrated by the Abbé Pierre case. Charismatic and loved by all, he had not hesitated to support the revisionist and anti-Jewish positions of Roger Garaudy. She also mentioned the sinister case of the desecration of the Jewish cemetery in Carpentras, to which four neo-Nazi skinheads with ties to the French and European Nationalist Party had recently confessed.

32. Politicians must seriously consider the danger posed by parties which generated chauvinistic fanaticism and exclusion of the most vulnerable and whose brutal claims targeting foreigners, applicants for asylum and migrant workers were already leading to a collective response by minorities, often resulting in uncontrollable urban violence.

33. The French Government must combat social problems, inequalities and unemployment, but, in the light of article 20 (2) of the International Covenant on Civil and Political Rights and article 4 (b) of the International Convention on the Elimination of All Forms of Racial Discrimination, it must ban the National Front since, without that party, racism would be unable to develop ideologically and strategically.

34. Mr. BOUTKEVITCH said that, particularly as a result of the Sub-Commission's activities over the past 30 years under item 5 of its agenda, there was no longer any Government that explicitly admitted it was racist. Most Governments even claimed that there was no racial discrimination in their countries. Unfortunately, reality contradicted those claims, as was demonstrated by the discrimination against migrant workers, graffiti and racial insults, Fascist and anti-Semitic propaganda, the desecration of cemeteries, the racist attitudes of some employers and policemen, the expulsion of foreigners, the crimes committed by Islamists, racist crimes, "ethnic cleansing" and genocidal acts. It was therefore important to seek the causes of that rise in racism, which sometimes took on insidious forms that were difficult to detect.

35. Among the legal causes were the refusal of many States to ratify the international instruments condemning racial discrimination or to incorporate the provisions of those instruments into their domestic law, the inadequacy or

lack of precision of constitutional or legislative provisions intended to combat racism, and ignorance of those provisions on the part of certain persons who were, nevertheless, responsible for implementing them.

36. Among the institutional and organizational causes were the lack of coordination between public prosecutors and other bodies responsible for preventing and punishing racist acts; the refusal of many countries to cooperate with NGOs and to report racist acts committed in their countries; the absence, in many countries, of national institutions responsible for combating racial discrimination; the absence of worldwide anthologies of laws against racial discrimination, which made it difficult to make any comparison between countries; the small number of multiracial associations; and the lack of studies of vulnerable population groups, which were often victims of racial discrimination.

37. In addition to all those reasons, there was the superiority complex from which certain monocultural societies suffered and the resurgence of extremist and Fascist movements. Furthermore, several new States, including those which had emerged from the former Soviet Union, had abandoned certain norms of international law and, owing to a lack of stable democratic institutions, threatened to lapse into Fascist ideologies. A final factor was the insufficient resources devoted to the fight against racial discrimination, of which the victims included members of ethnic and national minorities, migrant workers, prisoners and job seekers.

38. In order to remedy all those problems, it was important to stress the need to imbue citizens, inter alia through teaching and the media, with values opposed to racist and extremist theories, to analyse the fundamental causes of racial discrimination and to seek ways of preventing and combating it. It was also important to request implementation of the recommendations of the Commission on Human Rights and to invite the United Nations Secretary-General to organize a world conference on racism. It would also be possible to prepare an anthology of laws related to the fight against racial discrimination, which States could use as models. Furthermore, States parties to the International Convention on the Elimination of All Forms of Racial Discrimination should withdraw their reservations to that instrument, to which should be added an optional protocol taking account of new forms of racial discrimination and steps taken by various States with a view to their elimination. Finally, the question of compensating the victims of racist acts must be considered.

39. Ms. MINTON (International Work Group for Indigenous Affairs), speaking on behalf of the Pro-Kanaka Maoli Independence Working Group, said that that people, which had been living in Hawaii for thousands of years, was the victim of various forms of discrimination, with regard to, inter alia, health (extremely high rates of adult and infant mortality and suicide, and heavy consumption of alcohol and narcotics), the environment (contamination of land and water by toxic and nuclear wastes), housing (evictions and forcible removal), religion (destruction of sacred sites), the courts and the law. For example, the Kanaka Maoli were defined as one of the three categories of people who could not sue the State or Federal Government. The other two categories were children and mentally disabled adults. The United States

Congress predicted that the Kanaka Maoli people would disappear by the year 2044. Therefore, nothing would be done to prevent what amounted to genocide.

40. The plebiscite on the Kanaka Maoli lands currently being organized in violation of the Apology Law adopted by the United States Congress in 1993, sought to deny that people the right to self-determination, eliminate its rights to ancestral lands, deprive it of its status as a nation and define it as a tribe incompetent to manage its own affairs. The Pro-Kanaka Maoli Independence Working Group requested the Sub-Commission to investigate the violations surrounding that plebiscite, adopt a resolution to support the exercise of the Kanaka Maoli people's right to self-determination and recommend that the international community should endorse the development of a true process of decolonization of the non-autonomous territories in favour of the indigenous peoples who were its principal inhabitants.

41. Mr. CHISHI SWU (Society for Threatened Peoples) drew the Sub-Commission's attention to the situation of human rights in Nagaland, where, since the state of emergency declared by the Indian Government on 1 April 1995, armed forces had been doing their best to crush the popular protest movement. Three people had been killed while in the custody of the Indian army, and the military authorities were using hired men to eliminate human rights activists and Church leaders. The principles of human rights set forth in the Charter of the United Nations were being violated with complete impunity.

42. Since the beginning of the Indian invasion and occupation of Nagaland in 1954, the Indian Government's policy had always been the relentless suppression of the rights of the Nagas, whom it called separatists and terrorists. The Armed Forces Special Power Act of 1958 had been the cause of endless human rights violations. It was high time for the international community to react and condemn those atrocities, particularly since it was well aware of the violent suppression of the Kashmiris and the systematic exploitation of indigenous peoples in India. Only in 1995 had the United Nations Secretary-General officially acknowledged the existence of a "human rights situation" in Nagaland. The Society for Threatened Peoples therefore appealed to the Sub-Commission to recommend that the Commission should send a mission to Nagaland and the neighbouring areas to study abuses of human rights and to appoint a Special Rapporteur on the question so that justice could be done to the victimized peoples of the region.

43. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said that racism and racial discrimination continued to be manifest in many parts of the world in the form of racial hatred, ethnic and national violence and even genocidal practices.

44. For example, in 1995, Belgium had adopted a new Bill aimed at limiting the free movement of asylum seekers, who were kept in closed reception centres during the time necessary for the consideration of their applications. If their applications were rejected, they might spend many months in centres before being repatriated or sent to another host country. That Bill also included provisions extending the liability of carriers, who were obliged to verify that their passengers had adequate financial resources and the entry

documents necessary for their stay. Such measures, which were virtual acts of xenophobia and racial discrimination, might lead to the social exploitation by traffickers of vulnerable groups such as women, young girls and children.

45. In that regard, she expressed her organization's appreciation for the European Parliament's initiative in the fight against racism, the goal of which was to amend the Treaty on European Union in order to grant European institutions the competence to act in cases of racial and religious discrimination. Unfortunately, that proposal had not been mentioned at the meeting of the European Council in Florence in June 1996, and experts had conceded that there was not sufficient political will to take concrete measures against racism and xenophobia at the European level.

46. At the United Nations level, the mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the work of the Committee on the Elimination of Racial Discrimination showed the seriousness and widespread nature of the problem. While she welcomed the recent ratification of the International Convention on the Elimination of All Forms of Racial Discrimination by the United States of America, Switzerland and Japan, it was regrettable that Indonesia, Turkey and Ireland were not yet parties to that instrument.

47. In conclusion, the International Movement against All Forms of Discrimination and Racism drew the attention of the Sub-Commission to the following points: the usefulness of regular cooperation between the members of the Committee on the Elimination of Racial Discrimination and the Special Rapporteur and of periodic consultations between the Sub-Commission and the Committee; the importance of the right of individual petition under international instruments and, in particular, of article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, which established that right; the need to address the ambiguity of article 1 (2) of that Convention, which seemed to permit distinctions between the nationals and non-nationals of a State; and, finally, the importance of a preventive approach which would take into account the root causes of racism and racial discrimination within the framework of the activities planned for the Third Decade to Combat Racism and Racial Discrimination.

48. Mr. BYEKIR (Transnational Radical Party) said that the problem of racial discrimination was particularly difficult to deal with when it existed in a partly hidden form. That was the case, for example, when discrimination was institutionalized by the regional authorities of a country without the knowledge of the central Government. It was difficult for international bodies to monitor the human rights situation at the regional level, and central Governments often tended to deny their responsibility for violations committed, particularly in the case of large countries with a system of regional autonomy, such as India, Russia, Ukraine (with regard to the Crimea) or Tanzania (with regard to Zanzibar).

49. A system of "underground" discrimination also existed when violations of the political, economic, social and cultural rights of an ethnic group were officially based, not on racial considerations, but on other factors with, in practice, the same effects. Examples of that practice were cases where a

particular ethnic group did not know the official language of the State where it lived and those involving obligatory employment or permanent settlement, as in Tibet, East Turkestan, West Papua, East Timor, Kosovo, Sanjak, the Chittagong Hill Tracts, the lands of the Lakota nation, Hawaii and the Batwa people in Rwanda.

50. Discrimination could also exist even when the rights of certain groups were not officially restricted by law at the national or regional level if the Government did nothing to protect those rights and to punish those who violated them. Such governmental non-intervention promoted the continuation of human rights violations against specific ethnic groups. Such was the case in Ukraine, where the Government had failed during the past six years to denounce the Crimean Government policy of limiting the repatriation and resettlement of Crimean Tatars in their homeland. The Government had also refused to grant Ukrainian citizenship to over 200,000 Tatars who had returned to their homeland since November 1991 and had failed to prosecute the special militia troops who, in June 1995, had fired on Tatars who were protesting against the refusal of the authorities to take action against criminal acts committed against Crimean Tatars. In conclusion, he asked the Sub-Commission to focus its attention on those hidden, but nevertheless systematic, forms of discrimination.

51. Mr. MEHEDI recalled that, since 1978, the question of the elimination of racial discrimination had been included in the agenda of the Sub-Commission, which was currently paying particular attention to the reports submitted by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Concurrently with the work of the Special Rapporteur, the United Nations was endeavouring to implement the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, and it was unfortunate that that programme had not sufficiently emphasized education, human rights awareness and literacy training in general and, moreover, that there had been a confusion between the terms "teaching" and "education". Education was, indeed, the correct term since it was a question of the communication of knowledge to society as a whole rather than to a particular audience, as was the case of teaching. Moreover, it was important for that programme to be considered together with the Plan of Action for the United Nations Decade for Human Rights Education.

52. All countries must take the necessary steps to implement the recommendations made as a result of the conferences in Tehran and Vienna and to transmit to young people, through teaching, the principles set forth in the Universal Declaration of Human Rights and the other relevant international instruments. For example, article 26 of the Declaration stipulated that education should be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. Other instruments, such as the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, also mentioned the right to education.

53. With regard to the more specific provisions aimed at combating racism and racial discrimination, it was important to mention the fact that the United Nations Declaration on the Elimination of All Forms of Racial

Discrimination affirmed the necessity of adopting "national and international measures ... including teaching, education and information, in order to secure the universal and effective recognition and observance" of human rights principles. The International Convention on the Elimination of All Forms of Racial Discrimination also recalled the importance of teaching and education in the field of human rights. In that spirit, he proposed adding a mention of the strengthening of education in the field of human rights to the recommendations made by Mr. Boutkevitch.

The meeting rose at 1.10 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 August 1996, at 3 p.m.

Chairman: Mr. EIDE

later: Mr. LINDGREN ALVES

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ELIMINATION OF RACIAL DISCRIMINATION

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (agenda item 5) (continued) (E/CN.4/Sub.2/1996/5 and 8; E/CN.4/1996/71 and Add.1 and 72 and Add.1)

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COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO RACISM, XENOPHOBIA, MINORITIES AND MIGRANT WORKERS (agenda item 20) (continued) (E/CN.4/Sub.2/1996/30)

1. Mr. IDAMKUE (International Association of Educators for World Peace), speaking on agenda item 5, said that in spite of the existence of international instruments and programmes to combat racial discrimination, discriminatory policies or practices persisted in several States that were parties to those instruments. One example was the case of the Dalit (Untouchables) in India, who were subjected to subhuman treatment simply because of the circumstances of their birth, and who, because of their ethnic origin or family background, had no social interaction with other members of society. The Committee on the Elimination of Racial Discrimination had recently received a report from a non-governmental organization (NGO) describing their plight in detail.

2. In Nigeria, the Government had enacted various military decrees nullifying the human rights of the Ogoni people. By the Petroleum Decree of 1971 and the Land-Use Decree of 1978, the Ogonis had been deprived of their land, natural resources and cultural heritage without any form of compensation. Their farmlands had been forcibly transferred to the Royal Dutch Shell oil company for drilling operations. The military tribunal that had sentenced Ken Saro-Wiwa and eight other human and environmental rights activists to death in November 1995 had been found by the Secretary-General's fact-finding mission to Nigeria to contravene Nigeria's Constitution and the international instruments to which it was a signatory, and to have been set up specifically to target Ogoni activists. Since 1994, Ogoni-land had been occupied by an Internal Security Task Force and cut off from the outside world. In his 1996 report (E/CN.4/1996/4), the Special Rapporteur on extrajudicial, summary or arbitrary executions had stated that the Ogonis were specifically targeted by the military. General Assembly resolution 50/199, adopted on 22 December 1995, also condemned those human rights abuses.

Since 1958 crude oil valued at US$ 30 billion had been extracted from Ogoni territory and the revenue therefrom used to finance development in other parts of Nigeria; meanwhile, the Ogonis themselves were destitute and lacked the most basic services and infrastructures.

3. The Sub-Commission had also received reports of discrimination against the Batwa of Rwanda, who were victimized by the dominant Hutus and Tutsis on account of their ethnic origin and way of life. His organization urged the Sub-Commission to call on the Governments of Rwanda, India and Nigeria to take appropriate measures to end all those discriminatory practices.

4. Mrs. NARANG (International Institute for Non-Aligned Studies), speaking on agenda item 5, said it was regrettable that the financial resources allocated to the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination had been reduced in 1994-1995; for while the problem of apartheid had been largely resolved, racial discrimination persisted in various forms in many parts of the world. There continued to be a direct relationship between poverty and the colour of one's skin: poverty could thus be seen as a form of global apartheid. Immigrants to developed countries suffered discrimination in their jobs and social lives. Lately, groups had emerged that talked openly of racial superiority. Even in the Western liberal democracies, constitutional and legislative measures were inadequate to solve social and cultural conflicts, sometimes even exacerbating them. In the predominantly monolingual and monocultural societies of the West, the State had been formed around unitary symbols: one language, one religion, one culture, one community, and, in extreme cases, one party and one leader. Now that migration had made many of those societies multiracial, those who believed that a single language or culture or control by an allegedly superior race ensured stability were deceiving themselves. Her organization thus supported the suggestion, referred to in paragraph 68 of the annotations to the provisional agenda (E/CN.4/Sub.2/1996/1/Add.1), concerning the possibility of holding a world conference to combat racism, racial discrimination, xenophobia and related contemporary forms of intolerance; and urged all States to support the Commission and Sub-Commission in their efforts to eliminate racism. Merely by fractionally reducing their expenditure on armaments, States could make available the financial resources needed for that task.

5. Mr. KAUL (International Institute for Peace), speaking on agenda item 5, said that in Pakistan the Ahmediyas continued to be persecuted by the Government as non-Muslims and the Mohajirs, Muslim refugees from India, who had been in the forefront of the movement to create Pakistan, were now the most hounded of all Pakistan's citizens, on account of their distinct cultural identity. No less a person than the Minister of the Interior had justified killing them in custody.

6. In Jammu and Kashmir fundamentalist terrorists and mercenaries pillaged and killed a population whose creed of harmonious coexistence was anathema to them. The Hezb Ul Mujahideen group led by Mast Gul had been responsible for setting fire to the shrine at Charar E Sharief which for centuries had stood as a symbol of Muslim-Hindu amity in Kashmir. On his return to Pakistan, Mast Gul had been given a hero's welcome, and was now recruiting volunteers to fight a jihad aimed at replacing Kashmir's secular polity with a fundamentalist State. The same ideology that allowed the Pakistan Government

to persecute the Mohajirs because of their distinct cultural identity also imbued the mercenaries and terrorists trained in Pakistan and sent to Jammu and Kashmir. An urgent programme of action must be drawn up to curtail the support given by States such as Pakistan to terrorists and fundamentalist groups who executed in other countries the same deadly ideology that the Government of Pakistan was implementing in its own country.

7. Mr. PHILLIPS (Minority Rights Group), speaking on agenda item 17, said that with the creation of the new Working Group on Minorities, past criticisms that the Sub-Commission allocated insufficient time and attention to minority issues had now been addressed. In a recent review of the Sub-Commission's work, the Human Rights Advisory Committee of the Netherlands had singled out four ingredients for a successful working group: members who were experts on a subject; a mandate based on substantial research; participation of key actors including Governments and NGOs; and effective secretariat support. The Working Group clearly met all four criteria. It was becoming a mechanism that facilitated dialogue and conciliation between minorities and Governments, both through informal discussion and through the dissemination of ideas and documents. His organization strongly supported the recommendation of the Working Group that a voluntary fund should be established to enable minorities to participate in its discussions.

8. While the overall picture was thus positive, there had also been some causes for concern. The first session had been held at short notice, and had been under-prepared. The reference to "solutions to problems" in paragraph 205 of the report on the second session (E/CN.4/Sub.2/1996/28) might have been better expressed as "constructive responses to issues"; for intercommunity relationships rarely had solutions per se. The secretariat would need external help, more resources and a continuity of purpose to tackle the complex issues involved.

9. Four specific points merited highlighting. First, the Working Group should urge Governments and donors to provide data on levels of illiteracy among minorities. Second, indicators were needed on implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Third, the Centre for Human Rights should establish a database containing information on the work of United Nations bodies, specialized agencies and its own implementation mechanisms, which could then be shared with Governments, NGOs and the minorities. Last but not least, his organization proposed that, in order to avoid a hiatus in its work in 1998, the Sub-Commission should recommend to the Commission that the Working Group should be given a permanent mandate.

10. Mr. ZIARAN (Observer for the Islamic Republic of Iran) said that by Commission resolution 1995/12 the mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had been extended to include discrimination against Blacks, Arabs and Muslims, negrophobia and anti-Semitism.

11. In discharging that mandate the Special Rapporteur had visited the United States of America and some European countries where the situation warranted serious examination. In his report contained in

document E/CN.4/1996/72 he noted that racist propaganda and incitement to ethnic and racial hatred were spreading, and that racism was taking increasingly violent forms.

12. His delegation was concerned that Governments had tended to encourage the perpetrators of those acts by introducing restrictive measures aimed at foreign immigrants and refugees, often boosted by new laws on immigration. Excuses such as security concerns were invoked to justify restrictions on the enjoyment by migrants and refugees of their basic human rights, including the rights to asylum, freedom of movement, property, employment and preservation of their culture. Those measures constituted a subtle reflection of xenophobia.

13. The main victims of those new forms of racism and xenophobia were Muslims, who were perceived in the West as an immediate threat, against whom any form of action was permissible. Whenever an incident occurred, the first suspects were Muslims, in violation of the principle of presumption of innocence. The seriousness of the problem called, not merely for discussion, but for action on the part of the Sub-Commission. In accordance with its mandate and Commission resolution 1996/25, it should give priority to addressing that issue.

14. Mr. YIMER, speaking on agenda item 17, said that the reports of the Working Group on Minorities on its first and second sessions (E/CN.4/Sub.2/1996/2 and 28) contained many interesting ideas. All the issues before the Working Group had been discussed adequately. Paragraphs 38, 47 and 53 of the second report contained some particularly noteworthy proposals.

15. On the question of definitions, any attempt to define minorities would be a futile exercise, for the absence of a definition did nothing to hamper the work of the Working Group. As the Chairman-Rapporteur had pointed out, rather than defining a minority it might be more appropriate to adopt a constructive approach on the basis of the differences in the needs of minorities and the situations in which they found themselves. Also of interest was the distinction drawn between the rights of indigenous peoples and of minorities. As one observer had noted (para. 167), caution should be exercised in linking rights to domicile or long-term residence.

16. On the future role of the Working Group, he agreed that it should be the driving force of the activities of the United Nations in that field as the main forum for discussion between minorities and Governments (para. 175). However, the suggestion that it might serve as a forum for defusing tensions and preventing conflict involving minorities was not acceptable, for the Working Group had no mandate to involve itself in the task of conflict resolution. He endorsed the proposal that the Working Group should consider organizing its work on a thematic basis, focus on implementation of the Declaration (para. 177), and promote understanding of the Declaration through interpretative studies of its articles (para. 181). Also of interest were the various proposals contained in paragraphs 186 and 187 of the second report. In his view, there was no need to extend the mandate of the Working Group at the present juncture, since it was already sufficiently broad to allow the Working Group to discuss all issues adequately. That mandate should, however, be made more or less permanent.

17. Ms. HERNANDEZ QUESADA (Observer for Cuba), speaking on agenda items 5 and 20, said her delegation was deeply disturbed at the resurgence of racism, racial discrimination and xenophobia accompanied by the rise of extreme right-wing political organizations and paramilitary groups, as in countries such as the United States of America. Attempts were being made to attribute those phenomena to extremist elements, but any objective analysis was bound to take account of the impunity enjoyed by the perpetrators of outrages, who sheltered behind a selective interpretation of human rights.

18. The end of apartheid did not signify the end of racism and discrimination, but it did offer an opportunity for efforts to be redirected towards tackling the institutionalized racism and discrimination existing in many parts of the world, by implementing the relevant conventions, declarations, machinery and action programmes. Freedom of expression and association continued to be used as a means of stirring up hatred and xenophobia, and some States which had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination had entered reservations on article 4, according to which States parties should declare incitement to racial discrimination an offence punishable by law.

19. Meanwhile barriers were being raised against immigrants, often under the cloak of spurious political and nationalist interests or electoral considerations. It was extremely difficult if not impossible for immigrants and racial minorities to find a place in society, despite their major contribution to the economies of many countries in the North, where racism and discrimination were contributing to the growing gap between rich and poor in contemporary society.

20. The artificial financial crisis facing the United Nations, caused by certain States Members withholding their budget contributions, meant that all the gains made in the struggle to combat racism and racial discrimination and in the protection of minorities might be lost. However, when a topic was of greater interest to the richer States, the necessary funding was invariably found, whereas bodies such as the rights of the child were facing a financial obstacle course in order to fulfil their mandates. The problems needed special and continuing attention in order to prevent the programme of the Third Decade to Combat Racism and Racial Discrimination, the work of its Special Rapporteur as well as that of the relevant bodies within the United Nations system from losing sight of the purpose for which they were established.

21. Finally, she called on the members of the Sub-Commission to support the convening of an international conference on new forms of racism, racial discrimination, xenophobia and related intolerance.

22. Mr. TRUTER (Observer for Romania), speaking on agenda items 5, 17 and 20, reviewed the work of the Council for National Minorities, set up by the Romanian Government in 1993. National minorities had the right to be represented in parliament, where they were currently represented by 52 deputies, and they were also well represented at local level.

23. Through its six standing committees, the Council considered all aspects of the rights of national minorities in relation to the preservation, development and expression of their ethnic, cultural, linguistic and religious traditions. He went on to give examples of the Council's work in various areas. In the area of education, a new law made it compulsory to include the history of national minorities in all classes in Romanian schools. A bill on national minorities had been drafted by the Council, and was currently before parliament. The Council had financed publications, congresses, festivals and other activities for minorities, and had a special budget to support the European Youth Campaign against Racism, Anti-Semitism, Xenophobia, and Intolerance. Also, at a recent ministerial conference in Warsaw, the Council had declared its intention to continue with its campaign against racism until the year 2000. A committee had been set up to oversee the restitution to national minorities of property confiscated by the former communist regime, and for that purpose minorities had been granted access to the national archives. The Council had also developed a special training programme to train minority leaders in the international legislation of the United Nations, the Council of Europe and the Organization for Security and Co-operation in Europe.

24. Ms. TANGGAHMA (Survival International), speaking on agenda item 5, drew attention to the discrimination suffered by the indigenous people of West Papua, New Guinea. As part of its policy to create a uniform Indonesian race, the Indonesian Government sought to impose the name "Irian Jaya" on the people who had to call themselves "Irianese". Its transmigration scheme was turning the West Papuans into a minority in their own country, where they were unable to compete on an economic, social or cultural level with the dominant, mainly Javanese newcomers, who took advantage of the Indonesian patronage network to secure jobs, even in preference to better qualified West Papuans. The terms used by the authorities to describe the indigenous people of West Papua were degrading - masyarakat terasing (alienated communities) or masyarakat primitif (primitive communities) - and revealed the same degree of discrimination and intimidation as was to be found in the government development programmes, which were turning the West Papuans into an underclass of strangers in their own land.

25. Furthermore, transnational corporations were exploiting the lands of the West Papuans without any benefit to the local people. For example, the Grasberg opencast mine, operated by an Indonesian subsidiary of the United States company Freeport McMoran, had reduced the rain forest to a vast complex of mines, roads and towns. Local people had seen their hunting grounds taken over, their rivers polluted and their sacred mountain ravaged, with practically no consultation or compensation. Hundreds of people had been displaced and resettled in a crowded and unhealthy township.

26. The mixture of prejudice, discrimination and complete disrespect of West Papuan culture and neglect by the Government had put West Papuans at risk of becoming completely marginalized in their own rich country. The first step towards fighting the racism suffered by the West Papuans was to recognize that such practices were occurring. Therefore, Survival International recommended that the United Nations should send a fact-finding mission to West Papua to investigate the grievances and systematic discrimination of the indigenous population at all levels of society.

27. Ms. KABIR (International Progress Organization), speaking on agenda item 5, said that against a background of racial discrimination which took the form of the denial of human rights on the basis of race and religion, a new phenomenon was emerging, namely, the attempt by terrorist groups to justify their actions on the grounds of religion. Discrimination based on tribal, ethnic and religious intolerance was growing, with groups targeting each other and attempts being made by terrorist groups owing allegiance to one religion to destabilize societies where other religions predominated. The question of racial intolerance needed to be addressed in conjunction with those of religious and ethnic discrimination. To that end, as a first step, the institutions of democracy had to be strengthened, as democracy and secularism were the best eliminators of racial prejudice.

28. Educational programmes had to be established to convince people of the interdependence of groups despite differences in race or creed. However, an enlightened society could only be established if the international community first educated those Governments whose constitutions or institutions legitimized the policies of discrimination. Country-specific programmes needed to be drawn up based on the findings of impartial observers and NGOs, so that any Government which allowed discrimination to become institutionalized would be censured.

29. It was becoming increasingly noticeable that those countries whose systems legitimized discrimination were also those which were becoming sources of terrorist activity, and which were using terrorism to export fundamentalist structures to secular and tolerant societies. The denial of the results of democratic elections had been seen to lead to the genocide of co-religionists who were racially different. Mere advice and platitudes would not make the practitioners of discrimination change their ways. A programme of education must therefore be given teeth through a system of international censure.

30. Mr. LACK (International Association of Jewish Lawyers and Jurists), speaking on agenda items 5 and 17, acknowledged the important role played by the Sub-Commission in drafting international standards on both racial and religious discrimination.

31. The two most recent sessions of the Working Group on Minorities had been a most effective forum, bringing together States, NGOs (with or without consultative status), the relevant specialized agencies of the United Nations and regional intergovernmental organizations such as the Council of Europe and the Organization for Security and Co-operation in Europe. His organization supported the Sub-Commission for its innovative role in acting as a focal point for those organizations, and urged it to give greater publicity to future sessions of the Working Group. He noted that the critical role of treaty bodies concerned with different aspects of minority rights, notably the Human Rights Committee with respect to article 27 of the International Covenant on Civil and Political Rights, had not been overlooked.

32. His organization welcomed the decision of the Sub-Commission to examine the reports of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination and xenophobia and related intolerance (E/CN.4/1996/72 and Add.1). However, it deeply regretted the attempts, which had fortunately been unsuccessful, of some delegations at the

fifty-second session of the Commission to curtail the mandate given to the Special Rapporteur to report on contemporary forms of anti-Semitism under the Commission's landmark resolution 1994/64. His organization found the Special Rapporteur's insights into contemporary incidents and manifestations of xenophobia in Germany, France and the United Kingdom particularly helpful, and his recommendations constructive. However, he would welcome clarification of the curious statement in paragraph 16 of the report (E/CN.4/1996/72) on the existence of xenophobia in Germany, according to which: "racism is based on skin colour and religion: people of Judaeo-Christian background and the rest." He noted that early suspicions had been confirmed that the racist and anti-Semitic desecration of a Jewish cemetery in France in 1990 had been the act of an extremist right-wing group. He expressed concern that anti-Semitism in the United Kingdom was described in the report as being attributable to extremist Islamic and other irredentist groups active throughout the world, including Eastern Europe and the former Soviet Union.

33. His organization endorsed the expressions of dismay at the insensitive and misleading references to anti-Semitism in the Special Rapporteur's first report (E/CN.4/1995/78 and Add.1), which had implied endorsement of certain anti-Semitic myths rather than a rejection of them as false. It was to be hoped that such misunderstandings, which had possibly arisen from the financial constraints under which the Special Rapporteur had to work, would be avoided in the future. He trusted that disconcerting information in the Special Rapporteur's report on his mission to Brazil (E/CN.4/1996/72/Add.1) would be carefully evaluated by the Sub-Commission. He also deplored the fact that no further light had been shed on the terrorist bombing of the Jewish Community Centre in Buenos Aires over two years previously, which had killed almost 100 people.

34. Finally, he hoped that the Sub-Commission would put a more realistic emphasis on areas in which it was in a position to contribute more effectively to the implementation of existing human rights standards, and avoid duplicating work on human rights already being performed by the Commission and the General Assembly.

35. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) urged the Sub-Commission to take a critical look at the theoretical and practical issues of relevance to the Third Decade to Combat Racism and Racial Discrimination.

36. "Globalization", for example, was frequently blamed for a trend towards extreme forms of assertion of identity. But the term in itself was meaningless; what mattered was the associated standardization of lifestyles and patterns of consumption. Phenomena of social exclusion, nationalist rejection, intercommunal strife and fanatical demonization were viewed in fatalistic terms as though they had been produced by the operation of an objective law. But the world was composed of human beings and there was no authentic globalization without moral and political unification. He feared that the reification of the world, which produced such fearsome monsters of exclusion, would have an explosive impact on events in the years ahead.

37. Massacres and ethnic cleansing in the former Yugoslavia and the Great Lakes Region of Africa were two terrible manifestations of racism among peoples who were not really separate since they spoke the same language.

38. In Europe, policies that were purportedly directed against illegal immigration were in fact inspired by the racist idea of a threat of invasion from the impoverished South, particularly Africa. According to the official doctrine of the European Union, there was no relationship between racism and immigration policies but that theory was belied by the slogans of overtly racist political parties. The Sub-Commission must persuade the industrialized countries to refrain from exploiting fear of immigration for electoral purposes.

39. Deploring the fact that so few States, North or South, had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, he urged the Sub-Commission to adopt a resolution calling on all countries to do so.

40. His organization advocated the convening of a world conference against racism and for friendship among peoples, at which papers would be presented by legal experts, historians, sociologists and philosophers.

41. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism), speaking on agenda item 17, said that although over 90 per cent of the Korean community in Japan had been born and raised in the country, over 70 per cent had not acquired Japanese nationality and were still treated as foreigners for legal purposes. The Study Centre for Koreans and Minorities in Japan had been discriminated against by a Japanese company in 1994 on the grounds that it required a Japanese guarantor. The case had been brought before the Civil Rights Protection Bureau of the Ministry of Justice but no decision had yet been taken.

42. The Roma minority suffered widespread discrimination and exclusion, particularly in south-eastern Europe where pogroms had been conducted after the fall of communism. Even the Council of Europe used discriminatory language and stereotypes in its report on the situation of gypsies (Roma and Sinti) in Europe (CDMG(95)11/78). The Sinti and Roma had been defamed in a newspaper article in the Czech Republic as "potential carriers of epidemics", the disparaging term gitanada continued to be used in Spain and the Government of Romania had recommended that Roma minorities should be referred to as "gypsies".

43. She suggested that the Working Group on Minorities should be expanded so that it became a real forum for dialogue and that a voluntary fund should be established to enable more representatives of minorities to participate.

44. Miss Li Son OK (International Association of Democratic Lawyers), speaking on agenda item 17, said that Koreans resident in Japan were discriminated against, especially in education. As many Koreans had been forcibly moved to Japan during its colonial rule of Korea, Korean educational establishments had fulfilled an important role in keeping Korean culture alive. But the Japanese Vice-Minister of Education had said that such

establishments were designed to foster racism among Koreans and should not be given official recognition. As a result, graduates were denied the right, for example, to sit the examination to become a State-qualified nurse.

45. She recommended that the Sub-Commission should take steps to end discrimination against Korean schools in Japan.

46. Mr. KAUL (International Institute of Peace), speaking on agenda item 17, said that the Kashmiri Pundit minority had been persecuted by terrorists who had forced 250,000 Hindu families to seek refuge in camps in Jammu and Delhi. While the human rights community dwelt endlessly on the action taken by the security forces against the terrorists, scant attention was paid to the Hindus languishing in their camps because they had no nuisance value, they did not bear arms and they had no place in the strategic plans of Governments. A daring few Hindu families had made their way back to Kashmir but the targeting of Hindus by the Pakistan-sponsored fundamentalist mercenaries continued and whole families had recently been wiped out.

47. It was therefore essential to protect minorities not only from the discriminatory policies of Governments but also from the depredations of gun-wielding terrorists.

48. Mr. VAN WALT VAN PRAAG (Pax Christi International), speaking first on agenda item 17, urged the Sub-Commission to ensure that the mandate of the Working Group on Minorities was extended and that its work was facilitated and adequately financed.

49. The term minority should not be restrictively defined. Attempts to draw rigid distinctions between peoples, indigenous peoples and minorities often reflected a desire to limit the rights of affected population groups. The standards contained in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities should be applied regardless of the label given by Governments to specific population groups.

50. Language rights, education and effective participation in decision-making were key issues. Many Governments viewed minority groups and indigenous and other non-dominant peoples as a potential threat to their power and their attempts to deal with that threat ranged from denial of rights and attempted destruction of national, cultural, religious or ethnic identity to the use of military force. A recent example of the latter course of action was the indiscriminate killing of Chechens by the Russian armed forces to prevent the Chechen people from exercising their right to self-determination. The United Nations remained a mere onlooker as many of the most important provisions of the Geneva Conventions of 1949 were violated. On the other hand, the Secretary-General's envoys were making an important contribution to peace efforts in Abkhazia and Bougainville.

51. Relations between States and oppressed peoples and minorities would represent a major challenge in the coming decades. Military force further alienated its victims and Governments that waged war against the oppressed were in danger of losing their credibility, legitimacy and power.

52. Turning to agenda item 18 (b), he said that it was very important for the Special Rapporteur on the human rights dimensions of population transfer, including the implantation of settlers and settlements, to complete his final report for consideration by the Sub-Commission.

53. He drew attention to the situation of Ingush refugees who had been expelled by Russian and Ossetian troops from North Ossetia in 1992 and were living in terrible conditions in Ingushetia. He recommended that a United Nations mission should be sent to the area to make recommendations to the Russian Government.

54. The guerrilla war being waged in the Chittagong Hill Tracts of Bangladesh would in all likelihood persist until the settlement of Bengali farmers on the lands traditionally inhabited by the Chakma and indigenous Jumma peoples was stopped and reversed.

55. Other sources of tension and conflict were the movement of Javanese and other alien people to West Papua, Acheh and occupied East Timor, of Serbians into Kosovo and of Chinese into eastern Turkestan and Tibet.

56. The Crimean Tatars, deported by Stalin in 1944 and recently permitted to return to the Crimea, had met with a hostile reception from Russian settlers who sought to deprive them of their rights as an indigenous people.

57. Large numbers of Karenni civilians continued to be transferred forcibly to centralized security areas by the State Law and Order Restoration Council (SLORC) in Myanmar.

58. In Bougainville, the Papua New Guinea Defence Forces had ordered between 30,000 and 40,000 Bougainvillians to leave their villages for so-called Care Centres controlled by the Defence Forces.

59. True conflict prevention must include an understanding of population transfer and action to prohibit and prevent its many destructive manifestations.

60. Mr. Lindgren Alves took the Chair.

61. Mr. ARNOTT (War Resisters' International), speaking on agenda item 18 (b), noted that the multidisciplinary seminar on population transfer due to be held prior to completion of the Special Rapporteur's final report had been held up by a lack of funds. The Sub-Commission should do its utmost to ensure that the seminar was held before the end of the year. The final report should focus on the relationship between population transfer and the breakdown of the economic, social and cultural structure of the affected communities. Where rural populations were removed from the land, the result was frequently malnutrition. Relocation to different climatic zones carried the risk of death from exposure to new diseases. In general, population transfer in the form of ethnic cleansing, implantation of settlers, forced relocations and evictions had been a major source of human rights violations and political instability throughout the world.

62. Mr. STANDRING (Liberation) drew attention to ways in which the rights of religious minorities, migrant workers, asylum-seekers, industrial and other workers, and trade unionists were being violated across the world, citing cases in Kuwait, Saudi Arabia, the United Kingdom, France, Germany, Turkey, the United States of America, Nigeria and Bangladesh. However, the situation was particularly serious in Pakistani-occupied Kashmir, whose inhabitants were denied the very rights which the Pakistani Government demanded for others under Indian control. The violations included illegal detention, torture, phoney elections, violence against peaceful rallies, the suppression of trade unions, extrajudicial killings, and State-sponsored and private terrorism. The time had surely come for a fact-finding mission to be sent to study the cases of trade union and other human rights violations committed by Pakistan against its minorities, especially in Pakistani-occupied Kashmir.

63. Mrs. WARZAZI, speaking on a point of order, noted that the previous speaker had been dealing largely with material falling under agenda item 6. She hoped that in future NGOs would confine their comments to the agenda item or items under consideration and that the Chairman would stop them if they failed to do so.

64. Mr. EIDE, Chairman-Rapporteur of the Working Group on Minorities, speaking on agenda item 7, introduced the Working Group's reports on its first session (E/CN.4/Sub.2/1996/2) and on its second session (E/CN.4/Sub.2/1996/28). After explaining the Working Group's mandate as set forth in paragraph 2 of document E/CN.4/Sub.2/1996/2, he said that the Working Group had held its first session from 28 August to 1 September 1995 and its second session from 30 April to 3 May 1996. It had arrived at the recommendations contained in paragraphs 205 et seq. in document E/CN.4/Sub.2/1996/28, which he proceeded to highlight. The Working Group was particularly anxious to encourage wider participation in its proceedings, especially by national minority councils. It would hold its third session in the spring of 1997 and would then submit its concluding comments to the Sub-Commission at its forty-ninth session. It was hoped that the Working Group's mandate could be extended beyond the current three-year period in such a way as not to leave a gap in its existence in 1998 - a problem that would have to be taken into account in any draft resolution on the subject.

65. He went on to introduce his working paper on agenda item 20 (E/CN.4/Sub.2/1996/30), stressing the 16 elements of the conclusion contained in paragraphs 35-51 and the need for closer cooperation with the Committee on the Elimination of Racial Discrimination. An important workshop on minimum humanitarian standards in internal armed conflicts was due to be held in South Africa in September 1996. He hoped that his working paper would help to identify the priorities that should be set within the field of racism, xenophobia, minorities and migrant workers.

66. Mr. MAXIM, speaking on agenda item 17, noted that the participation of a large number of governmental and non-governmental observers had helped to enrich the Working Group's thinking and to turn it into a real laboratory for work on minority populations. Particularly valuable for the future were the recommendations on the collection and comparison of constitutional and legislative provisions, the preparation of brief studies on the content and objectives of the 1992 Declaration on the Rights of Persons Belonging to

National or Ethnic, Religious and Linguistic Minorities, and the concentration of effort on specific topics such as multicultural education, minorities and the territorial integrity of States, and the role of the media. The adoption of a more positive and serene general approach had also been helpful.

67. He believed that the Working Group could develop ideas on the rights of members of minority groups, which were frequently manipulated into participating in inter-ethnic conflicts, and clarify some of the nebulous terms deliberately used in order to foment confusion. It was gratifying that the Working Group had avoided the tendency to separate minority rights from human rights in general. In the collection of information on national legislation on minorities it was important that the consideration of national policies on minorities should be accompanied by a thorough examination of the specific measures put into practice to implement them. A comparative study of the situation in regions such as Europe might be helpful in that respect.

68. Mr. EL-HAJJÉ said that he hoped that in future the Working Group would concern itself with conflicts between different minority groups within the same country and investigate situations in which specific minority groups voluntarily isolated themselves from the rest of society because they considered themselves to be different. That could perhaps be done in connection with the issue of multicultural education. Consideration should also be given to situations in which countries were actually governed by minority groups.

69. Mr. GUISSÉ said that the proceedings of the Working Group showed that solutions were beginning to be found. However, there was a need to strike a balance between the rights of minority groups and their political, economic and social duties, since overall progress depended on the efforts made by all groups, including minorities.

The meeting rose at 6 p.m.